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CC:
Subject: Cross-Cutting Issues News for August 17, 2012



CROSS-CUTTING ISSUES NEWS
AUGUST 17, 2012

HIGHLIGHTS

Emergency Response
EPA to Remove Outdated Local Emergency Planning Committee Database on Sept. 1

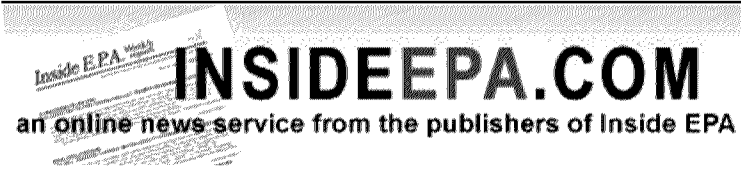
The Environmental Protection Agency said Aug. 15 it will eliminate its Local Emergency Planning Committee database Sept. 1....

Endangered Species
Corps of Engineers Nationwide Permits Violate Endangered Species Act, Group Says

The Center for Biological Diversity notified the U.S. Army Corps of Engineers Aug. 16 that the environmental group will file a lawsuit in federal court charging that the Corps' nationwide permit program under Clean Water Act Section 404...

Water Pollution
States Say EPA Data Do Not Fully Capture Efforts to Reduce Nutrient Runoff

Data released recently by the Environmental Protection Agency on nutrient indicators do not capture the full extent of progress states are making to reduce runoff into lakes, streams, and rivers, according to state water officials....



Activists Threaten Suit To Force Species Reviews In CWA General Permits

Environmentalists are threatening to sue the Army Corps of Engineers to block implementation of its streamlined Clean Water Act (CWA) permits they say fail to address concerns about adverse impacts on endangered species from dredge-and-fill activities authorized by the permits, hoping a delay will allow for broad reforms to the program.

BIOTECH:
'I found it cool to try to build a species with my own hands'

It's a big fuss for a small, blind fly. To little fanfare, Eduardo Moreno, a University of Bern geneticist, has created what he calls the world's first "synthetic" animal species, a crippled, bioengineered fruit fly that, while failing to breed with its natural peers, freely gets down with its own kind -- a trait that cuts straight to the classical definition of a species. [Go to story #1](#)

ENDANGERED SPECIES:
Study touts citizens' role in preventing extinctions

Phil Taylor, E&E reporter

Published: Thursday, August 16, 2012 [http://adserver.eenews.net/www/delivery/ck.php?oaparams=2_bannerid=1334_zoneid=73_source=click to_cb=2ce1f98bb3_oadest=http://www.ldcgasforums.com/mc/ew/](http://adserver.eenews.net/www/delivery/ck.php?oaparams=2_bannerid=1334_zoneid=73_source=click_to_cb=2ce1f98bb3_oadest=http://www.ldcgasforums.com/mc/ew/)

Proposals to limit citizen involvement in Endangered Species Act listings could allow some of the most at-risk wildlife to fall through the cracks, according to a new study published today in *Science* magazine.

The study by academic researchers Berry Brosi and Eric Biber found that citizens, who can petition to list species for protection under the act, have done a better job than the Fish and Wildlife Service of picking the species most in need of federal safeguards.

It also found that listings from citizen petitions are more likely to affect economic development than those proposed by the agency, a possible consequence of the political pressure associated with imposing new federal restrictions, the study notes.

"One of the most important results coming out of our paper is that citizen involvement really acts as an important check and balance to the agency," Brosi, a conservation biologist at Emory University in Atlanta, said in an interview. Biber teaches natural resources law at the University of California, Berkeley.

The study -- which was praised by the Center for Biological Diversity, a frequent litigant for new protections -- comes as Republicans on Capitol Hill seek overhauls to the nearly 40-year-old law to limit what they say are excessive petitions and litigation (*E&E Daily*, Dec. 7, 2011).

The report rebuffs such calls, arguing that citizen groups buttress the listing work at FWS, which is inherently limited in scope, budget and staff size. Past research has shown the agency is also not immune to political pressure, Brosi said.

"Calls to streamline the ESA and to rely exclusively on FWS to identify and list species might mean that a significant number of species that deserve legal protection -- especially those that are politically unpopular because of the potential to obstruct development projects -- would be left out in the cold," the study found.

Brosi said the study used FWS data on 913 threatened and endangered species, each of which include recovery priority scores indicating biological threat of extinction, conflict with economic development, and taxonomic level, such as whether they are full or subspecies.

It found that citizen-initiated protected species face higher levels of biological threats, are more likely to be in conflict with development and include a greater portion of subspecies than those proposed by FWS.

"Regardless of intent or motivation, the citizens are doing a better job of picking the species most deserving of protection," Brosi said.

Fourteen percent of the listed species were initially reviewed by a citizens' petition, rather than being driven by placement on the agency's candidate list, Brosi said.

Noah Greenwald, endangered species director at CBD, said the report underscores the role citizens, independent scientists and groups play in identifying plants and animals in need of protections. CBD has secured protections for more than 500 species including polar bears, Mexican spotted owls, jaguars and Puget Sound killer whales, he said.

"Limiting citizens' access to that process would leave many, many species without the protection they need to avoid extinction," Greenwald said.

But critics including House Natural Resources Chairman Doc Hastings (R-Wash.) have argued that petitions and litigation gum up the agency, siphon important resources away from species recovery and often cost taxpayer dollars in legal fees. Listed species also thwart development and force federal agencies into time-consuming consultations, critics say.

"We need to move beyond a system where species are added to the list but never come off," Hastings said earlier this summer. "Increasing the number of ESA species shouldn't be the primary goal. It should be to recover species and get them taken off the list."

Since 2007, environmental groups have petitioned to list more than 1,000 species -- nearly as many as were listed in the previous 30 years, according to FWS (*E&ENews PM*, July 12, 2011). Agency officials in the past have warned that most of their listing budget has been spent on litigation and responding to petitions, leaving almost no money for placing new species under federal protection.

To help manage the unwieldy number of petitions, FWS last year asked Congress to place a cap on the amount of money that can be spent to process petitions (*E&E Daily*, March 17, 2011). Such a cap essentially allows the service to argue in court that it had done all it could before running out of money.

And while the agency last fall finalized a sweeping settlement with CBD and WildEarth Guardians in which it agreed to make hundreds of final listing decisions in exchange for a reprieve from new petitions, a recent proposal by CBD to list 53 new species has strained the spirit of that settlement, FWS has warned (*Greenwire*, Aug. 7).

Brosi, the study author, said it's a constant balancing act in picking which species are most in need without crippling the agency with work.

"We really do have to be very careful and selective in picking the suite of species that really is most deserving of protections," he said.

MEXICO: Anti-logging program in monarch butterfly wintering grounds a success -- report

Published: Thursday, August 16, 2012

An anti-logging program in an area of Mexico where monarch butterflies migrate for the winter has been a success, according to a new report.

Government officials, environmental groups and private donors have paid millions to communities in the butterfly nature reserve to stop illegal logging practices and instead launch ecotourism establishments.

"This has been a successful program," said Juan Elvira Quesada, Mexico's secretary for the environment. "We want to keep expanding it."

It is the first time that no logging has been detected since the nature reserve was designated in 2000.

At the same time, a representative from environmental group WWF Mexico said small-scale logging may still be taking place, and policing efforts to prevent the destruction of the pine and fir forests should continue (*AP/New York Times*, Aug. 15). -- **WW**

AIR POLLUTION: EPA releases final cleanup plan for Mont. haze

Gabriel Nelson, E&E reporter

Published: Thursday, August 16, 2012

U.S. EPA today ordered several large industrial plants in Montana to cut emissions that cause hazy outdoor air, following through on a Clean Air Act requirement for states to clean up haze at national parks and wilderness areas.

The plan would tighten limits on soot- and smog-forming chemicals from the largest coal-burning plant in the West, two cement plants and a natural gas compressor station.

But the plan drew swift criticism from environmentalists who say EPA should have taken a harder line on pollution after Montana officials handed over the task of deciding what controls are needed at the 2,100-megawatt Colstrip power plant east of Billings.

The plant, which is jointly owned by PPL Montana LLC, Portland General Electric Co., NorthWestern Energy, PacifiCorp, Puget Sound Energy and Avista Corp., has already drawn threats of lawsuits from environmental groups that call it the "worst in the West" (*Greenwire*, July 26).

Critics point to studies linking the Colstrip plant's emissions to dozens of deaths and hospital visits each year. Some of those ailments would be avoided if EPA were to demand selective catalytic reduction equipment rather than the less costly alternative needed to comply with today's rule, said Robert Shepard, a retired physician from Helena, Mont., who has pushed for stronger secondhand smoke and air pollution rules in the state.

"It's not like we're talking about technology that's rocket science, that's unproven," Shepard said. "It's out there, it's being used and it works. So I don't understand what they're thinking here."

David Hoffman, the director of external affairs at PPL Montana, said last month that more than \$100 million in pollution controls have been added to the plant since 2000, including mercury controls on all four boilers and special burners in two boilers that cut down on nitrogen oxides, or NOx.

Adding more controls to the two boilers at the Colstrip plant will reduce NOx emissions by about 4,200 tons and sulfur dioxide emissions by about 8,600 tons, at a total cost of \$14.7 million per year. The rest of the facilities will spend a combined \$3.1 million per year to cut their NOx emissions.

EPA says those steps will improve the health of Montanans, especially children.

Carl Daly, the director of the air quality program at the agency's Denver-based Region 6 office, said the pollution controls in today's rule were chosen because they offered "reasonably significant visibility improvements with a reasonable cost."

"To go to the higher level, the more stringent level of control -- that was not warranted by the incremental visibility improvement you would get coupled with the additional cost you would incur," Daly said during an interview.

URANIUM: House Democrats press CDC for progress report on Navajo health study

Manuel Quinones, E&E reporter

Published: Thursday, August 16, 2012

House Democrats are urging the Obama administration to move ahead with an assessment of the health effects of uranium mining on the Navajo Nation.

Reps. Ed Markey of Massachusetts, Henry Waxman of California, Ben Ray Lujan of New Mexico and Frank Pallone of New Jersey asked the Centers for Disease Control and Prevention for a progress report on the Navajo Birth Cohort Study that Congress mandated in 2008.

"We believe this study is of great importance, as it would be the first detailed look at the public health impacts of past uranium mining and milling operations on Navajo children," the lawmakers wrote in a letter to CDC Director Thomas Frieden.

The study aims to enroll about 1,500 pregnant women, assess their exposure to pollution from past uranium mining and study their children.

Parts of the Navajo Nation are plagued with elevated levels of radiation and other problems from several hundred abandoned mine sites (*Greenwire*, Dec. 13, 2011). While the area has a history of pollution -- dating back to uranium mining for atomic weapons -- researchers are still early in assessing the impacts.

"In spite of the potential for long-term, chronic exposure to community members," the lawmakers wrote, "no comprehensive health studies have ever been conducted to assess the impact on the Navajo people from exposure to this uranium contamination."

Earlier this year, the Government Accountability Office found that federal agencies could better coordinate uranium mining permitting and cleanup issues. Markey, the top Democrat on the House Natural Resources Committee, pressed for the study.

Pallone is known for his advocacy against mining pollution. Lujan represents parts of the Navajo Nation. And Waxman was instrumental in getting different agencies to cooperate on cleaning up abandoned mines.

A spokeswoman for the CDC said the agency would be responding to the lawmakers' letter.

[Click here](#) to read the letter.

ENDANGERED SPECIES: Group plans lawsuit against Army Corps' water permit program

Paul Quinlan, E&E reporter

Published: Thursday, August 16, 2012

An Army Corps of Engineers permitting program for water-related projects fails to account for potential harm to endangered species or their habitat, according to an environmental group that threatened to sue to stop the program.

The Center for Biological Diversity today filed a [notice](#) of intent to sue over the Army Corps' Nationwide Permitting Program.

The program is aimed at streamlining Clean Water Act permitting for projects deemed by the agency to have minimal adverse environmental impacts.

Fifty active nationwide permits, all of which are good for five years and most of which were reissued in March, green-light projects ranging from residential and agricultural development to hydropower.

The southern leg of the Keystone XL pipeline -- proposed to link Canada's oil sands region to Gulf Coast refineries -- is one example of a project authorized under the program, which the group alleges has been "mismanaged and abused."

"For years the Corps of Engineers has systematically turned a blind eye to the plight of America's most vulnerable wildlife and plants," said Noah Greenwald, endangered species director at the center, in a statement. "It's time for that to stop."

In its letter of intent, the environmental group alleges that the Army Corps issued or reissued the 50 March permits before completing consultations with the National Marine Fisheries Service or the Fish and Wildlife Service as the Endangered Species Act requires.

The group notes that the Army Corps acted in the face of concerns raised by the fisheries service in a February [report](#) that said the corps failed to structure permits to ensure the protection of endangered species and critical habitat.

"While small projects under nationwide permits may appear benign, their cumulative impact is fragmenting habitat, destroying wetlands and polluting waters," Greenwald said.

OIL AND GAS: Mont. tribe grapples with hydraulic fracturing on reservation

Published: Thursday, August 16, 2012

Tribal leaders have decided to tap into the buried oil wealth of Montana's Blackfeet Indian Reservation, triggering a debate over hydraulic fracturing in a place where residents believe the land is living and sacred.

Well pads and water tanks, tractor-trailers loaded with chemicals and drilling machinery, and drilling rigs now dot the reservation's landscape, located on the eastern edge of Glacier National Park. These sights have become more common across the western United States since the recession hit, as tourist spending has dipped and officials have searched for ways to make up for the lost revenue.

Oil exploration in the area began in the 1920s and died off in the 1980s. But the rise of oil prices and the development of new technologies for hydraulic fracturing have drawn drillers back.

Of the reservation's 1.5 million acres, companies have leased out drilling rights for at least 1 million acres, according to the Bureau of Indian Affairs. This year alone, 30 exploratory wells have been drilled, and some are already engaged in fracturing.

The rigs do bring jobs. On the Blackfeet reservation, where unemployment is as high as 70 percent, one rig created 49 jobs.

But some in the tribe still wonder if they are making a mistake in allowing the drilling.

"These are our mountains," said Cheryl Little Dog of the Blackfeet Tribal Business Council, the reservation's governing body. "I look at what we have, and I think, why ruin it over an oil rig?" (Jack Healy, *New York Times*, Aug. 15). -- **JE**

WATER: Hawaii's highest court rules for Maui stream restoration

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The Hawaii Supreme Court yesterday ruled in favor of native Hawaiian and environmental groups seeking to have more water restored to Maui streams so they can grow taro and restore natural habitat.

The state Commission on Water Resource Management failed to adequately consider how stream flows affect native Hawaiian practices when it introduced a proposal that outlines how much water two companies may divert from streams, the court ruled. The commission also did not properly consider alternative sources of water.

The ruling overturned a decision from the Intermediate Court of Appeals. The case has been sent back to the commission for reconsideration.

In 2010, the commission ruled that Hawaiian Commercial & Sugar and Wailuku Water must restore 12.5 million gallons per day to the Waihee, North Waiehu and South Waiehu streams in central Maui, an amount that is just over a third of the 34.5 million gallons recommended to be restored. The ruling also allowed existing diversions from Iao and Waikapu streams to continue unchanged.

Isaac Moriwake, an Earthjustice attorney representing the groups Hui o Na Wai 'Eha and the Maui Tomorrow Foundation, said the commission failed to protect water resources for future generations, rather than just for present economic gain. He called the Supreme Court ruling a "historic and tremendous victory."

"Some of [my clients] couldn't even talk because they were choked up," he said. "These were tears of joy but also tears of relief, in a sense" (Audrey McAvoy, *AP/San Francisco Chronicle*, Aug. 15). -- **JE**

ClimateWire -- Fri., August 17, 2012 -- [Read the full edition](#) **1. STATES: Weather extremes threaten everything from farms to football in Ga.**

While attention on the impacts of the 2012 drought has largely focused -- understandably -- on the nation's agricultural belt and the rising cost of a bushel of corn, the state of Georgia has been gripped by a dry spell of historic proportions. Life is already changing in Georgia because of the drought. But some experts wonder if it is changing enough.

2. HEALTH: Texas faces 'worst year ever' for West Nile disease

Officials in Dallas coordinated aerial insecticide spraying last night following a sharp rise in West Nile virus infections in the region. The surge of illness follows a relative lull in West Nile infections in 2011, when Texas health officials reported 27 illnesses and two deaths.

TODAY'S STORIES

- 3. BUSINESS: India throws \$7B lifeline to Ky. coal industry**
- 4. WEATHER: Drought's grip eases, but only slightly**
- 5. PUBLIC OPINION: Drought victims worry about the water needs of energy production -- poll**
- 6. FORESTS: How climate change is changing forests in the Northeast -- report**
- 7. BIOFUELS: Novozymes cuts prediction of U.S. ethanol production because of drought**
- 8. FORESTS: Canada's greenbelt stores vast amounts of carbon, report says**
- 9. COAL: Chinese company seeks to invest \$1B in Texas clean coal project**
- 10. EDUCATION: National Science Foundation funds climate change curriculum, despite opposition**
- 11. NATIONS: German chancellor's visit throws spotlight on Canada's weaker climate policies**

EnergyWire -- Fri., August 17, 2012 -- [Read the full edition](#) **1. HYDRAULIC FRACTURING: Diesel still used to 'frack' wells, FracFocus data shows**

Diesel fuel has been used to "frack" at least 138 wells in the United States in the past year and a half, according to data filed by drillers with the

FracFocus.org registry. But if the definition of diesel proposed by U.S. EPA were used, that figure would rise to 408, according to an *EnergyWire* analysis of FracFocus data provided by PIVOT Upstream Group.

THIS MORNING'S STORIES

- 2. CALIFORNIA: Fracking bills derailed in committee
- 3. LNG: New export terminals could become white elephants -- study
- 4. PUBLIC HEALTH: Marcellus Shale disease studies gain interest, but no funding
- 5. OFFSHORE DRILLING: Spill containment systems are fully operational, company execs say
- 6. NATURAL GAS: Pricing push-back may see Russia turning to Asia for customers -- report
- 7. NATURAL GAS: Dimock residents close to settlement with Cabot
- 8. OHIO: Stricter rules for disposal wells not enough -- enviros
- 9. OIL SANDS: Canadian doctors call for health study
- 10. OIL SANDS: Canadian developer considers joint venture with Sinopec

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